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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,788	08/04/2003	Tim Brophy	14572P-060400US	6903
20350	7590	04/23/2004	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			STERLING, AMY JO	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/633,788	<b>Applicant(s)</b> BROPHY ET AL.	
	<b>Examiner</b> Amy J. Sterling	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the first Office Action for application number 10/633,788, Equipment Support for Use with Office Cubicles, filed on 5/8/02. Claims 1-23 are pending.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 recites the limitation "the track" in line 1. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section

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122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-3, 7-10, 16, 17 and 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent No. 6418010 to Sawyer.

The patent to Sawyer discloses a support (104) apparatus for supporting an object from a cubicle wall, having an adjustable bracket (112, 114) for engaging a top surface edge of the cubicle wall, a member (110, 130), suspended from the bracket, for extending generally parallel to the cubicle wall, and at least one adapter (106), coupled to the member, for mating to the object, wherein the bracket (112, 114) is slidably coupled with the member (110, 130) and a hinge (118) for rotating the bracket (112, 114) .

Sawyer also shows wherein the member includes a track (123) and wherein the adapter (106) is slidably coupled to the track to permit height adjustment relative to the top surface edge of the cubicle wall and a mount (106) attached to the track in a plurality of positions, for a computer flat-panel monitor.

Sawyer also shows a means for adjustably engaging with a plurality of cubicle wall shapes (112, 114), the cubicle wall having a covering having a predetermined support capacity, a means for supporting an object (106) having a weight in excess of the predetermined support capacity, and a means for positioning (110, 130) the supporting means adjacent to the cubicle wall, the positioning means having a means

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for coupling with the engaging means (124) and a means for rotating (126) the engaging means.

Sawyer also shows the method of suspending a track from a top portion of a cube wall (136), positioning the track along side of the cubicle wall, and attached a computer monitor support (126) to a desired position in the track (123), and extending the track thereby moving the mount to a desired location.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5282368 to Ordoukhanian.

The patent to Ordoukhanian discloses a support apparatus that could be adapted to support an object from a cubicle wall, having a bracket (26) for engaging a top surface edge of the cubicle wall, an outer track (30) and an inner track (22) telescopable track member suspended from the bracket (26), for extending generally parallel to the cubicle wall, and at least one adapter (36) coupled to the member, for mating to the object wherein the member (22) includes a set of height-adjusting structures (24 and 34) distributed along a length of the member (22) and wherein the adapter (36) is

engageable with any structure of the set of structures to permit height adjustment relative to the top surface edge of the cubicle wall.

Claims 1, 6, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5553823 to Protz, Jr.

The patent to Protz, Jr. discloses a support apparatus which could be adapted to supporting an object from a cubicle wall, having a bracket (28) for engaging a top surface edge of the cubicle wall, a member (27, 46) suspended from the bracket, with an extendable track (46) for extending generally parallel to the cubicle wall, and at least one adapter (35), coupled to the member (27, 46), for mating to the object.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 11-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 6418010 to Sawyer as applied to claims 1 above, and in view of United States Patent No. 5282368 to Ordoukhanian.

Sawyer discloses applicant's basic inventive concept, all the elements shown above including wherein the adapter (106) has a first orientation in which it slidably

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engages the track and a second orientation different from the first orientation in which the adapter slidably engages the track whereby the orientations could be orthogonal with respect to each other.

Sawyer does not show wherein the member is telescoping and contains and inner and outer track telescopable with respect to each other wherein the adapter has a first orientation in which is slidably engages the inner track and a second orientation wherein the adapter engages the outer track.

Ordoukhanian shows a support wherein the member is telescoping and contains and inner (22) and outer track (30) telescopable with respect to each other wherein the adapter (36) could have a first and second different and orthogonal orientations in which the adapter (36) slidably engages both inner track and outer track simultaneously, used in order to move the adapter (36) up and down with respect to the cube wall. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Ordoukhanian to have modified the track of Sawyer to be telescopable with a inner and outer track and to have the adapter moveable along this track, in order to adjust the height of the computer monitor with respect to the cube wall.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6467744 to Calin shows a support adaptable to different sized mounts

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6398174 to Emalfarb shows a support adaptable to different sized mounts

6189849 to Sweere et al. shows a computer monitor support

5620059 to Crsipeno shows a support with adjustable member (6) and bracket (16)

5779206 to Harris et al. shows an adjustable bracket

5597288 to Hatanaka shows a support with an adjustable member

5485932 to Romm et al. shows a support with adjustable member

4138019 to Smith shows support with an adjustable bracket

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-305-3597 or 703-305-3598 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.



AJS  
Amy J. Sterling  
4/14/04



LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER